CITY OF MATLOSANA

IRRECOVERABLE BAD DEBT POLICY

2017/2018

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INDEX

		Page
1.	Introduction	2
2.	Interpretations	2
3.	Criteria for irrecoverable debt	3
4.	Other cases	6
5.	Authorizations	8

1. INTRODUCTION

The Municipal Manager must ensure that all avenues are utilised to collect the municipality's debt. However, for various reasons there will always be bad debt cases that needs to be catered for through a policy on the writing-off of irrecoverable debt for circumstances that allows for the valid termination of debt collection procedures as contemplated in section 109(2) of the Local Government: Municipal Systems Act (No 32 of 2000) as amended. The Municipal Manager must provide Council with a policy and guidelines with regards to the writing off of irrecoverable debts / bad debts, owed by consumers to Council and to ensure that all outstanding amounts owing to Council can be recovered effectively and economically and are financially viable

2. INTERPRETATIONS

For the purpose of this policy, the wording or any expression has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:

"**Act**" - The Local Government Act: Systems Act, 2000 (Act No 32 of 2000) as amended from time to time;

"**Authorized Representative**" - Person or instance legally appointed by the Council to act or to fulfil a duty on its behalf;

"**Chief Financial Officer**" - the person appointed by Council to administer its finances regardless of the designation or title attached to the post;

"**Consumer**" - any occupier of any property to which the Council has agreed to supply services or already supplies services to, or failing such an occupier, then the owner of the property;

"**Council**" -the municipal Council of the City of Matlosana;

"**Credit control and debt collection**" - means the functions relating to the collection of any monies due and payable to the Council;

"**Defaulter**" - a consumer who owes money to the Council after the due date has expired;

"**Households**" - all matured persons older than 18 years that occupied a property within the jurisdiction of the Council regardless whether the person rents or owns the property;

"**Council**" - the institution that is responsible for the collection of funds and the provision of services to the consumers of;

"**Municipal account**" - shall include levies or charges in respect of the following services and taxes:

(a) electricity consumption,

(b) water consumption,

(c) refuse removal,

(d) sewerage services,

(e) basic electricity charges

(f) basic water charges

(g) property rates,

(h) interest and/or surcharges,

(i) housing rentals and instalments,

(j) miscellaneous and sundry charges.

"**Municipal Manager**" - the person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated;

"**property**" - any portion of land, of which the boundaries are determined, within the jurisdiction of the Council.

3. CRITERIA FOR IRRECOVERABLE DEBT

Debt will only be considered as irrecoverable if it complies with the following criteria:

1) All reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount. However, in special cases where the requirements in terms of Council's Credit Control and Debt Collection Policy are impractical, the administration must motivate which other remedies were applied or actioned; or
2) any amount equal to or less than R500 or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it can be written off without submission to Council; or
3) debt on an account which comprises of only interest
4) the cost to recover the debt does not warrant further action; or
5) the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
6) there is a danger of a contribution;
7) no dividend will accrue to creditors; or

8) a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or

9) In case of death of the debtor a creditor's claim must be timeously registered against the deceased's estate or if an estate has no income or has not been registered and the death can be proved by any means, any amount not being recovered due to insufficient funds be written off.

10) it has been proven that the debt has prescribed; or

11) the debtor is untraceable or cannot be identified so as to proceed with further action; or

12) the debtor has emigrated leaving no assets of value to cost effectively recover Councils claims;

13) it is not possible to prove the debt outstanding; or

14) a court has ruled that the claim is not recoverable; or

15) the outstanding amount is due to an irreconcilable administrative error by the Council; or expenditure incurred, in respect of internal accounts raised in the name of the City of Matlosana, in any previous financial year; or

16) if an offer of full and final settlement is confirmed in writing by the City Manager in terms of the City of Matlosana: Credit Control and Debt Collection By-law; or

17) all arrears may be written off to bad debts where Council-

    (i) expropriates any property; or

    (ii) purchases any property in terms of item 10 (1) (f); or

18) all arrears may be written off to bad debts where a property has been forfeited to the State in terms of the Prevention of Organized Crime Act 121 of 1998; or

19) where the occupiers have been evicted from Council, Provincial or State properties due to criminal activities; or

20) through supporting the City's housing related debt management processes and in instances where a housing debtor has applied for and been granted a housing indigent grant in terms of the Housing Indigent Policy, all debt related to that property for that debtor (excluding capital debt of home ownership units), up to the date of granting of indigent status will be written back. Such write back will occur only once for any debtor, thereby allowing for a once off rehabilitation, where after the debtor will immediately be subject to the Customer Care, Credit Control & Debt Collection policy should the account again fall into arrears; or

21) where the Housing advises the Chief Financial Officer that a housing debtor has been granted a housing indigent grant such debtors rates, services and sundry debt related to that property for that debtor shall be written off once; or
22) should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or bypassing will be instituted;
23) should the Municipal Manager become aware that the focus of an organization has changed, or its financial position has improved or its registration as a non-profit organization or public benefit organization has lapsed or terminated within three years after the arrears were written-off, such arrears will become payable with immediate effect.
24) Where registered non-profit organizations or public benefit organizations would, except for being in arrears on their Municipal accounts, qualify to receive a rates rebate, in terms of the Rates Policy, will, with effect from the date of qualification, have all their arrears written off, thus ensuring that they meet all the criteria to receive the rates rebate and;
    (i) this assistance will only be granted once to an organization subject to the condition that an electricity prepayment meter must be installed at the organizations cost, where applicable;
    (ii) should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or bypassing will be instituted;
25) should the Municipal Manager become aware that the focus of the organization has changed, or its financial position has improved or its registration as a non-profit organization or public benefit organization has lapsed or terminated within three years after the arrears were written-off, such arrears will become payable with immediate effect.
26) Arrears on closed tenant accounts which have debt which exceeds 1,080 days (3 years) and cannot be linked to an account on Councils financial system, not exceeding R500 on the account may be written off with approval of the Chief Financial Officer. Any amount exceeding R500 must be submitted to Council for approval to write off.
27) Irrecoverable debt of registered indigent consumers will be written off on a once off basis by Council subject to the stipulations in the Indigent policy.

4. OTHER CASES

a) 1) Housing

The allocation of stands and or houses (low cost) with State or Council associated funds by the applicable directorate, has in some instances resulted in debt being raised and carried on Council's Financial system in the name of the intended beneficiary as per Council's records, but who never took occupation of the property for one or more of the reasons that follows herein after or for a dispute that arose and can reasonably be motivated by the applicable Director or his/her delegated official.

- Occupation taken by illegal occupants
- Failure to have informed the intended beneficiary
- Failure of beneficiary to take occupation of the property due to the fact that the beneficiary cannot be traced
- Alteration of allocation not effected in council's records

2) The following scenarios are reflected;

All scenarios are subject to the conditions reflected in paragraph 1 above and are the responsibility of the Housing Manager

2.1 Where a debtor is untraceable or cannot be identified so as to proceed with further action, the Housing Manager or his delegate shall accordingly inform the CFO for possible write off and the stand shall be re allocated to a new occupant by the delegated housing official.

2.2 On all residential permits issued for the historical townships, it is clearly stipulated that the allocated person shall take occupation or develop the site within three months from the date of signature of that permit. All such abandoned stands shall be identified and be reallocated by the delegated housing official on a "Voetstoots" basis and shall be approved by the Housing Manager or his delegate.

2.3 That all such privately owned properties be identified and be immediately handed over to Council's panel of attorneys for collection. When all legal avenues have been exhausted and amounts owed cannot be recovered, such cases be referred to the relevant Court for possible attachment of that immovable property.

2.4 In case of death of the debtor, a creditor's claim must be timeously registered against the deceased's estate, failing which the property be handed over for collection. (Estate). Such properties may ultimately be deregistered and shall revert back to Council.

2.5 That all cases where the estate (next of kin) is indigent and cannot afford the transfer costs from the deceased, Council seek funding either internally, or externally to resolve this challenge and that Council writes off the amounts due by the deceased.

b) Clearance Certificates

i. In terms of legislation the Council will under normal circumstances not issue a clearance certificate on any property unless all outstanding amounts are paid to date. However due to the potential lack of resources of Council to implement its credit control policy, it might be possible that such a property may have accumulated such a significant outstanding balance over a period of time that it may not be within the ability of the new owner to pay such an amount in order to obtain a clearance certificate.

ii. Where such circumstances may prevail the prospective new owner may apply to the Council for relief of such outstanding debt or a portion thereof.

iii. Such application must be submitted to the Chief Financial Officer for consideration. In reviewing such application, the Chief Financial Officer must ensure that;

- Reasonable measures have already been taken to recover the outstanding amount from the current debtor.
- The prospective buyer of the property is not in a financial position to settle the outstanding amount before a clearance certificate is issued.

iv. It is not in the interest of the Council and/ or the community to withhold a clearance certificate before the outstanding debt is fully paid

v. Any amount to be written off in terms of paragraph 2.2 above must be subject to the provision of paragraph 4 below.

c) Meritorious Cases

Notwithstanding the framework provided in this policy for the writing off of irrecoverable debt, Council mandates the CFO or his / her delegate to consider and recommend to Council meritorious cases and provide reasons for same.

4. AUTHORIZATIONS

(a) Debt below R500 as stipulated above may be approved for writing off by the Chief Financial Officer or his delegated person as a delegated authority.

(b) debt on an account which comprises of only interest may written off by the Chief Financial Officer or his delegated person as a delegated authority, due to the fact that there is no capital amount outstanding

(c) In respect of other debt above R500, schedules indicating the debtor account number, the debtors name and the physical address in respect of which the debt was raised, address, erf number, if applicable, amount per account category as well as a reason to write-off the amount must be compiled and submitted to Council for approval as irrecoverable debt and writing off.

(d) Notwithstanding the above, the Municipality or its authorized officials will be under no obligation to write-off any particular debt and will always retain sole discretion to do so.